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Streaming Sans Limits

Isha Pimpalikar

ABSTRACT

What we watch isn't only for eyes; it's the way we subconsciously remember, act and incorporate change into our lifestyle. The last decade has silently rewritten the rules of how and what India watches, reacts, and even thinks. The idiot box, the television set that once ruled the houses, has long since been forgotten and is now competing with something far more personal and far more powerful: the OTT platforms. With a screen in every hand and content available at will, platforms like Netflix, Amazon Prime Video, JioHotstar, and SonyLIV are no longer just replacing the concept of entertainment but evolving into genre-specific content broadcast through web series, mini-series, movies, and short films, giving small and startup productions a huge platform to play with creativity.

But as George Sand says, *"Art for art's sake is an empty phrase. Art for the sake of truth, art for the sake of the good and the beautiful, that is the faith I am searching for."*¹

This paper questions whether India's "publish-first, regulate-later" model under the IT Rules 2021 and the proposed Broadcasting Bill maintains the right balance between creative freedom and societal responsibility.

Keywords: *OTT Platforms, Freedom of Speech, Obscenity, IT Rules 2021, Broadcasting Bill, Article 19, Comparative Regulation*

INTRODUCTION

Sorry to interrupt your binge-watching but I just wanted to ask you all of all the web series you have seen, did you actually like the story and theme, or was it the bold scenes and the profanity that kept you hooked? Replacing the concept of entertainment with genre-specific and curated content. For years, OTT platforms operated in what can only be described as a legal grey zone, comfortably outside the rigid frameworks that governed television and cinema. And even today, they tend to operate without regulations or censorship, provoking unnecessary legal implications. This article questions when storytelling becomes this powerful and this unfiltered, whether there is a necessity to draw the line. It examines the societal impact of unregulated OTT content, the economic giant that OTT has become, and analyses India's current legal framework under the IT Rules 2021 and the proposed Broadcasting Bill. Through comparative insights and critical gap analysis, his article questions when storytelling becomes this powerful and this unfiltered is there a necessity to draw the line? It examines the societal and cultural impact of unregulated OTT content, its massive economic influence, and analyses India's current legal framework. Through comparative insights and critical gap analysis, this

¹ George Sand, Quote on Art, GOODREADS, <https://www.goodreads.com/quotes/397741-art-for-art-s-sake-is-an-empty-phrase-art-for> (last visited May 17, 2026).

work argues that while creative freedom is vital, the present model demands stronger, balanced regulation that respects constitutional boundaries under Article 19.

SOCIETAL AND CULTURAL IMPACT OF UNREGULATED OTT CONTENT

In today's highly modern world, use of foul language and vulgarity has become the Cool Quotient. People have long forgotten the beauty of language. 'Thank You', 'Sorry', 'Excuse me', and 'Please' sound archaic and obsolete. People like being respected, but when it comes to giving respect, that's terrible! Obscenity, vulgarity, and profanity is a very normal thing now due to overexaggeration of content and unrelated raw scenes are the Hit Formula for OTT content makers. While we look towards the judiciary for the protection of our social and cultural ethics, the silence of law sometimes speaks the loudest. In the *College Romance* case (2024), the Supreme Court of India, in *Apoorva Arora v. State*² (NCT of Delhi), The court has dismissed the criminal charges against the creators, actors, and producers of a well-known web series. It emphasised that the presence of strong language or vulgarity in a series doesn't inherently qualify as obscenity or sexually explicit content as defined by Sections 67 and 67-A of the Information Technology Act, 2000. Furthermore, it clarified that such language does not constitute indecency toward women as a whole.

To add to it, India's constitution prevails to safeguard the religious sentiments under Art. 25-28 and also curtails right to speech and expression against targeting and speaking ill about a religion under Art. 19(2). However, this is easily overlooked under the statement, '*This Content Is Fictitious And Does Not Intend Demeaning Any Religion.*' We have already witnessed this in the web series Tandav. Yet such content is not censored. **Supreme Court of India (Tandav Case, 2021)**³ following multiple FIRs alleging that the political drama series *Tandav* hurt religious sentiments, the Supreme Court refused to grant blanket protection from arrest to the show's producers and actors. The Court emphasized that the right to free speech cannot be unrestricted and requires filmmakers to exercise restraint.

The courts then become the battleground where artistic freedom and community standards collide an arrangement that is neither efficient nor predictable. The Supreme Court of India has ongoing hearings monitoring a Public Interest Litigation seeking stricter censorship and penal laws for obscene content on OTT platforms. The Court notably stated that platforms like Netflix and Amazon hold a high "social responsibility"⁴.

The Freedom of Speech and liberty to express thoughts, the fundamental rights provided by our Constitution, are manipulated for wrong use. In the name of valuing 'ART,' people unnecessarily amplify the atrocities and project a filthy image of our country. The reason is that content writers and producers have assumed that all people like this kind of raw content, unfiltered scenes, and purely real graphics. What people don't understand is that such content does nothing but provoke undesirable attitudes among viewers. George Washington has aptly

² *Apoorva Arora v. State* (NCT of Delhi), 2024 SCC OnLine SC 325 (Supreme Court of India, Mar. 19, 2024).

³ *Aparna Purohit vs State Of U.P.*, AIR ONLINE 2021 ALL 507 (<https://indiankanoon.org/doc/194293303/>)

⁴ Utkarsh Anand, Supreme Court Issues Notice to Centre on Plea to Ban Sexually Explicit Content on OTT, Social Media Platforms, THE HINDU, Apr. 2025, <https://www.thehindu.com/news/national/supreme-court-notice-to-centre-others-on-plea-to-ban-sexually-explicit-content-on-ott-social-media-platforms/article69500510.ece>.

Supreme Court Issues Notice on Plea Seeking Ban on Sexually Explicit Content on OTT Platforms, MEDIANAMA, Apr. 2025, <https://www.medianama.com/2025/04/223-supreme-court-ott-sexual-content-plea/>.

said, *“The foolish and wicked practice of profane cursing and swearing is a vice so mean and low that every person of sense and character detests and despises it.”*⁵

ECONOMIC SIGNIFICANCE AND THE NEED FOR REGULATION

*“The Indian media and entertainment industry is one of the fastest growing media industries in the world and is projected to reach \$100 billion by 2030.”*⁶ said Apurva Chandra, Secretary, Ministry of Information and Broadcasting. Within this booming landscape, OTT platforms have emerged as the real game changers. As per industry reports, India’s OTT video services are expected to become a massive industry, with subscription revenues alone crossing thousands of crores in the coming years. As per the PwC Global Entertainment & Media Outlook 2022-2026, India’s OTT video services market is expected to reach ₹21,032 crore by 2026, growing at an impressive 14.1% CAGR. Out of this, subscription-based services (SVOD) are projected to contribute ₹19,973 crore, while transactional video-on-demand (TVOD) is expected to add around ₹1,058 crore. Subscription revenue is driving the explosive growth, expected to account for nearly 95% of total OTT revenue by 2026.⁷

Platforms like YouTube dominate with massive advertising revenues, while subscription giants like Netflix and JioHotstar compete in a crowded market. Regional content now accounts for nearly half of total consumption. In simple terms, OTT is too big to ignore, too influential to leave unchecked, and too complex to regulate casually.

Yet, this very growth is under serious threat due to weak and fragmented regulation. The OTT makers have found a new concept of storytelling they showcase modern society full of unethical practices. Adultery, relationships for monetary gains, dirty politics, vulgarity, extreme violence, and sensitive issues are the new stories. More dangerously, the lack of strong regulation has turned OTT into a fertile ground for piracy and copyright infringement.

In *Jagran Prakashan Ltd vs Telegram Fz LLC*,⁸ the Delhi High Court directed the defendants to take down, within 48 hours, certain channels on which users were reproducing and distributing the plaintiff’s copyrighted content. The plaintiff company provides a digital e-paper to its subscribers. With the rapid rise in the number of streaming services available on the internet and the exponential increase in content, instances of piracy and copyright infringement have also increased significantly. While there are certain laws that address such infringements and define the responsibilities of OTT platforms, it is necessary to further strengthen and detail the provisions specifically dealing with digital content made available across multiple OTT platforms. Clear procedures are required regarding liability and the extent of responsibility of the respective parties involved. Such steps will go a long way in protecting the rights of creators and copyright owners, and will eventually help in reducing piracy on OTT platforms.

Intellectual Property (IP) is undoubtedly one of the fastest-growing and most promising areas of law in India. If properly protected, India has the potential to become a global creative

⁵ George Washington, Quote on Profane Cursing, BRAINYQUOTE, https://www.brainyquote.com/quotes/george_washington_146833 (last visited May 17, 2026).

⁶ Press Information Bureau, Ministry of Information and Broadcasting, Press Note (2025), <https://www.pib.gov.in/PressNoteDetails.aspx?NoteId=156068&ModuleId=3@=3&lang=2>.

⁷ PwC, Global Entertainment & Media Outlook 2022-2026 (2022), <https://www.pwc.in/industries/entertainment-and-media/global-entertainment-and-media-outlook-2022-2026.html>.

⁸ *Jagran Prakashan Ltd. v. Telegram FZ LLC*, 2023 SCC OnLine Del (Indian Kanoon), <https://indiankanoon.org/doc/193622459/>.

superpower exporting stories, talent, and content to the world. But unchecked piracy and weak enforcement are quietly killing this dream. Without stronger regulation, robust grievance mechanisms, and clear liability frameworks for OTT platforms, we risk losing billions in potential revenue and thousands of jobs in the creative economy.

LEGAL FRAMEWORK IN INDIA

For years, OTT platforms operated in a legal grey zone, comfortably outside the rigid frameworks that governed television and cinema. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021⁹ marked the State's first serious attempt to regulate them through a three-tier grievance redressal mechanism and content classification system. has simultaneously exposed regulatory gaps in addressing harms that engage Article 19(2)¹⁰ grounds sovereignty and integrity of India, public order, decency, morality, and protection of children. Early reliance on general criminal provisions (IPC sections on obscenity, defamation, and promoting enmity) and the safe harbour under Section 79 of the Information Technology Act, 2000¹¹ proved inadequate to tackle the scale, speed, and personalised nature of OTT content, which often bypasses the content certification norms applicable to theatrical and television broadcasts under the Cinematograph Act and Cable Television Networks (Regulation) Act¹².

The Union Government's response through the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 particularly Part III governing Online Curated Content Publishers and the proposed Broadcasting Services (Regulation) Bill, 2023¹³ represents a legitimate move towards "co-regulation." These frameworks impose age-based classification, content labelling, parental controls, grievance officers, self-regulating bodies, and an inter-departmental oversight tier, while seeking convergence across linear and non-linear broadcasting. When an OTT platform gets content uploaded, it goes through a review process first. However, content creators can still upload their work directly to video hosting sites or intermediaries. These intermediaries usually only need to take action if someone complains about the content. They have some protection under safe harbour laws, while the OTT platforms are responsible for self-regulating, even if the content is identical across both platforms.¹⁴

From a constitutional standpoint, such regulation is not inherently antithetical to Article 19(1)(a). The Supreme Court's jurisprudence consistently affirms that freedom of speech and expression is subject to reasonable restrictions in the interest of the public, provided they satisfy the tests of legality, proportionality, and necessity. Unregulated OTT proliferation, by contrast, could disproportionately harm vulnerable groups and erode the delicate balance the Constitution envisages. The challenge lies not in the *need* for regulation which is both

⁹ Ministry of Electronics and Information Technology, Amendment to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (Feb. 2026), <https://www.meity.gov.in/static/uploads/2026/02/550681ab908f8afb135b0ad42816a1c9.pdf>.

¹⁰ Constitution of India, art. 19.

¹¹ Section 79- IT Act, <https://indiankanoon.org/doc/844026/>.

¹² The Cable Television Networks (Regulation) Act, 1995, No. 7 of 1995, India Code, https://www.indiacode.nic.in/bitstream/123456789/15345/1/the_cable_television_networks_%28regulation%29.pdf.

An Act to regulate the operation of cable television networks in the country and for matters connected therewith or incidental thereto.

¹³ Draft Broadcasting Services (Regulation) Bill, 2023, [https://prsindia.org/files/bills_acts/bills_parliament/2024/Draft_Broadcasting_Services_\(Regulation\)_Bill_2023.pdf](https://prsindia.org/files/bills_acts/bills_parliament/2024/Draft_Broadcasting_Services_(Regulation)_Bill_2023.pdf).

¹⁴ PRS Legislative Research, Draft Broadcasting Services (Regulation) Bill, 2023, PRS India (2023), <https://prsindia.org/billtrack/draft-broadcasting-services-regulation-bill-2023>.

compelling and constitutionally sanctioned but in ensuring that the regulatory design remains narrowly tailored, transparent, and insulated from executive overreach or prior restraint. A well-calibrated framework that preserves creative freedom while enforcing basic content accountability is therefore not merely desirable but essential to sustain the legitimacy of India's digital public sphere.

COMPARATIVE ANALYSIS AND WHERE INDIA FALLS SHORT

Countries like Singapore and Australia have laid down firm rules for OTT services with regulating bodies working like a 'Censor Board.'¹⁵ China and Singapore mandate pre-screening; even UK platforms follow BBFC-guided self-classification before release. The European Union¹⁶, for instance, has adopted a far more rights-driven model, where frameworks such as the General Data Protection Regulation place user autonomy and data privacy at the centre of digital governance. OTT platforms operating within such systems are not only responsible for what they stream, but also for how they collect, process, and monetise user data.

The Indian regulatory approach appears far less settled when viewed globally. The table below presents a comparative picture:

Attribute	United Kingdom	United States ¹⁷	China ¹⁸	India
Dedicated OTT Legislation	Yes (Online Safety Act 2023)	No (Section 230 immunity)	Yes (Administrative regulations)	Partial (IT Rules 2021)
Constitutional Basis	ECHR Art. 10 (qualified)	First Amendment (near-absolute)	Art. 35 (heavily restricted)	Art. 19(1)(a) & 19(2)
Regulatory Body	Ofcom (independent)	FCC + FTC (limited)	NRTA + CAC (state-controlled)	MIB (executive ministry)
Regulatory Model	Hybrid co-regulatory	Self-regulatory	State-centric pre-emptive	Three-tier self-regulation
Pre-Screening	No (risk-based ex-post)	No	Yes (mandatory)	No
Enforcement & Penalties	Strong (up to 10% revenue)	Minimal	Extensive	Weak (mainly s. 69A blocking)
Age Verification	Technically robust	Partial	Mandated	Advisory only

¹⁵ Online Content Regulation: How is it Done in Other Parts of the World?, IKIGAI LAW (date), <https://www.ikigailaw.com/article/354/online-content-regulation-how-is-it-done-in-other-parts-of-the->.

¹⁶ Giovanni Sartor & Francesca Lagioia, The Impact of the General Data Protection Regulation (GDPR) on Artificial Intelligence (Eur. Parl. Res. Serv., Study PE 641.530, June 2020), [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/641530/EPRS_STU\(2020\)641530_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/641530/EPRS_STU(2020)641530_EN.pdf).

¹⁷ Garima Kapoor, Article Title, 6 INT'L J. LEGAL SCI. & INNOVATION (2024).

¹⁸ Ms. Deepali & Prof. (Dr.) B.S. Bhatia, Comparative Analysis of Censorship on OTT Platforms, 6 THE J. OF AFR. DEV. (2025).

The United Kingdom's Online Safety Act 2023 with Ofcom¹⁹, The United States' First Amendment minimalism and China's centralised control offer contrasting models. India's framework, though structured, suffers from critical gaps when assessed against these benchmarks and international standards.

Critical Gaps include: no independent statutory authority, no pre-screening mechanism, weak enforcement and penalty framework, inadequate age verification, lack of transparency, reliance on delegated legislation, and ministerial turf war between MeitY and MIB.

While the three-tier grievance system and constitutional framework under Article 19 are relative strengths, the overall approach remains reactive and fragmented.

CONCLUSION

While OTT platforms proudly claim to be champions of creative freedom, the real question that haunts is: **freedom at what cost?** In the name of bold storytelling, have we normalised profanity, vulgarity, cheap shock value, and unnecessary bold scenes as the new normal, especially against women and minority sects? Have we allowed content creators to hide behind the shield of "this is fictitious" while hurting religious sentiments, corrupting young minds, imbibing ideas of crime and projecting a filthy image of our society? The line between artistic liberty and complete irresponsibility has become dangerously blurred.

Today, much of OTT chases views, subscriptions, and sensation, but at the heavy price of our cultural and moral values. The current "publish-first, regulate-later" model under the IT Rules 2021 and the pending Broadcasting Bill has created more confusion than clarity. Vague standards, weak enforcement, ministerial overlap, and lack of independent oversight have left the ecosystem unstable. While I strongly believe in the power of creative freedom under Article 19(1)(a), I equally believe that this freedom cannot be absolute. Article 19(2) exists for a reason to protect decency, morality, public order, and the dignity of our society.

It is high time India takes firm yet balanced measures to regulate OTT platforms. We do not need blind censorship like China, nor complete inaction like the early unregulated days. What we need is responsible regulation, an independent regulatory body, proper age verification, transparent grievance mechanisms, proportionate penalties, and clear guidelines that distinguish between genuine art and cheap vulgarity.

Let us not kill the creativity that made OTT platforms powerful. But let us also not allow that creativity to become a licence for moral decay and legal implications. The future of Indian storytelling should be bold, fearless, and truthful, but it must also remain respectful and responsible. Only then can we truly say that our art serves the good and the beautiful.

¹⁹ Banani Adhikari, Understanding the Need for OTT Content Regulation: A Socio-Legal Perspective, 7 INT'L J. FOR MULTIDISCIPLINARY RES. (July-Aug. 2025).

